

C/007/0013/incoming
C/015/0015/incoming
cc: Daron



United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
Western Region Office
1999 Broadway, Suite 3320
Denver, CO 80202-3050



K

June 28, 2010

Daron Haddock
Division of Oil, Gas, and Mining
P.O. Box 145801
Salt Lake City, UT 84116

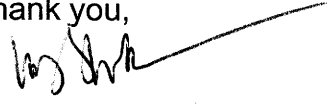
RECEIVED
JUL 06 2010
DIV. OF OIL, GAS & MINING

Dear Mr. Haddock,

Included for your records is a copy of the Inspection Reports for the *Wildlife Exclusionary Periods* topic evaluations/inspections for the Emery Deep and Lila Canyon Mines conducted May 11-12, 2010.

Please contact me if you have any questions or need any additional information at (303) 293-5025 or eshaeffer@osmre.gov.

Thank you,


Elizabeth Shaeffer
Office of Surface Mining, Denver Field Division

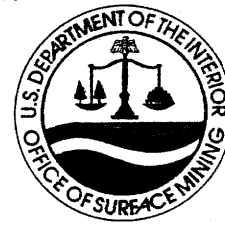


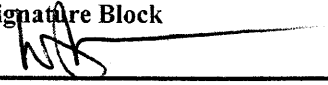
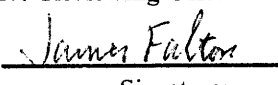
U. S. DEPT. OF THE INTERIOR

OFFICE OF SURFACE MINING

Mine Site Evaluation

State Program



1. Permittee/Person CONSOLIDATION COAL CO.		9. Permit Number UT-015-015		10. Permit Type PP	
2. Address P.O. BOX 566		11. Field Visit Date 05/11/2010 mm - dd - yyyy		12. Purpose O	
3. City Sesser		4. State IL		13. SRA Present Y	
5. Zip Code 62884		6. Phone Number (618) 625-6850		14. Permit Status A	
7. Operator Name, if Different than Permittee		15. Site Status AP		16. Facility Type B	
8. Mine Name EMERY DEEP MINE		17. OSM Office # 140		18. CCID #	
		19. Land Code SF		20. M.S.H.A ID # 42-00079	
		21. State Abrev. UT		22. County Name EMERY	
		23. AVS Permittee Entity ID Number 107373		24. State Office	
25. Hours		26. Signature Block		27. Reviewing Official:	
2.0 a. Permit Review					
3.0 b. Site Visit Time		Signature: Elizabeth Shaef ID # 377		Signature:	
12.0 c. Travel Time		Printed Name:		Review Date: 6/23/2010 mm - dd - yyyy	
3.0 d. Report Writing		Date: 06/23/2010		Is Supplemental MSE Page Used Y/N Y	

Permit Type — Item 10 IP = Interim Program, PP = Permanent Program, NP = No Permit

Purpose Type Codes Item 12

Oxx... Oversight
Axx... Assistance

RFx... Reclamation Fees
Fxx... Federal Actions

CCR... Citizen Complaint Referral (non site visit)
CC... Citizen Complaint (initial site visit)
CCF... Citizen Complaint Follow-up

Joint Inspection — Item 13 A joint inspection is when a state inspector accompanies an OSM inspector any time during the review of the mine site.

Permit Status — Item 14

A... Active: Coal mining and reclamation activities occurring or permitted but not yet disturbed.

IN... Inactive (Permanent Program Permit): Phase II completed or Temporary Cessation of Operations. (Interim Program Permit) Coal mining completed and reclamation activities initiated.

BR... Bond Release: Reclamation completed and State Regulatory Authority (RA) has released all of the bond (Phase III Release.)

AB... Abandoned: All surface and underground coal mining activities have ceased and operator has left the site without completing reclamation as defined in 30 CFR 840.11(g).

AB1... Bond Forfeiture: Bond forfeiture officially in process or completed, and reclamation in progress or not yet commenced.

AB2... Partially Reclaimed Forfeiture: Forfeited site where all bonds have been used to reclaim site, but site not reclaimed to Program standards.

AB3... Reclaimed Forfeiture: Forfeited site that has been reclaimed to Program standards.

NA... Not Applicable: When site is unpermitted.

Site Status Codes — Item 15

ND... No Disturbance: No coal mining and reclamation operations have been started.

EX... Coal Exploration: Coal exploration operations have started and where coal mining operations have not begun.

AP... Active Coal Producing: Coal surface mining activities are occurring.

AN... Active Non-Producing: Active non-producing facility such as tipple or preparation plant.

NM... No Mining: The Permit Status is active, site is not in Temporary Cessation, no surface coal mining activity, and site not regraded.

MC... Mining Complete: No mining activity on site, site regraded and awaiting phase bond release.

TC... Temporary Cessation: The RA has granted cessation of mining pursuant to 30 CFR 816/817.131(b).

P1... Phase I Release: At least Phase I bond release granted for entire permitted area. For interim permits, partial bond release.

P2... Phase II Release: At least Phase II bond release for the entire permitted area.

P3... Phase III Release: Reclamation completed and the RA has released all bond.

NS... Non-Site Visit: Status of site not determined.

FP... Forfeiture Pending: The RA is pursuing actions to revoke the permit, collect the performance bond(s), and/or reclamation of forfeited site is in progress.

FR... Forfeited and Reclaimed: Forfeiture reclamation completed.

FO... Abandoned Site: Abandoned site that is permitted but there is no bond.

WC... Wildcat: Coal mining and reclamation operations have or are taking place and the activity is not covered by the required permits from the RA.

Facility Type Codes — Item 16

A... Surface
B... Underground
C... Preparation Plant

D... Ancillary (Haulroad, Conveyor, and/or Rails)
E... Refuse and/or Impoundment
F... Loading Facility and/or Tipple
G... Stockpiles

H... Exploration Permits
I... Notice of Intent to Explore
J... Exempt 16 and 2/3
K... Government Financed Construction Exemption

L... Remaining site permitted under 30 CFR 785.25

Small Business Regulatory Enforcement Fairness Act (SBREFA)

Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you are a small business (a business with 500 or fewer employees including those of affiliates) and wish to comment on the enforcement or compliance activities of OSM, call 1-888-REG-FAIR (1-888-734-3247).

U. S. DEPT. OF THE INTERIOR OFFICE OF SURFACE MINING

Mine Site Evaluation

State Program

Permittee/
Person

CONSOLIDATION COAL

Permit
Number

UT-015-015

Field Visit
Date

05/11/2010

Continuation Page

28. Performance Standard Categories

Codes: 1=Compliance, 2=Noncompliance, 3=Not Planned, 4=Not Started, 5=Noncompliance Identified Elsewhere, 6=Previously Cited

- | | | |
|---|---|--|
| A. Administrative
1. <u>1</u> Mining within Valid Permit
2. <u>1</u> Mining within Bonded Area
3. <u>1</u> Terms & Conditions of Permit
4. <u> </u> Liability Insurance
5. <u> </u> Ownership and Control
6. <u> </u> Temporary Cessation
7. <u> </u> AML Rec. Fees -- Non-Respondent
8. <u> </u> AML Rec. Fees -- Failure to Pay
B. Hydrologic Balance
1. <u> </u> Drainage Control
2. <u> </u> Inspections & Certifications
3. <u> </u> Siltation Structures
4. <u> </u> Discharge Structures
5. <u> </u> Diversions
6. <u> </u> Effluent Limits
7. <u> </u> Ground Water Monitoring
8. <u> </u> Surface Water Monitoring
9. <u> </u> Drainage -- Acid-Toxic Materials
10. <u> </u> Impoundments
11. <u> </u> Stream Buffer Zones
C. Topsoil & Subsoil
1. <u> </u> Removal
2. <u> </u> Substitute Materials
3. <u> </u> Storage and Protection
4. <u> </u> Redistribution | D. Backfilling & Grading
1. <u> </u> Exposed Openings
2. <u> </u> Contemporaneous Reclamation
3. <u> </u> Approximate Original Contour
4. <u> </u> Highwall Elimination
5. <u> </u> Steep Slopes (includes downslope)
6. <u> </u> Handling of Acid & Toxic Materials
7. <u> </u> Stabilization (rills and gullies)
E. Excess Spoil Disposal
1. <u> </u> Placement
2. <u> </u> Drainage Control
3. <u> </u> Surface Stabilization
4. <u> </u> Inspections & Certifications
F. Coal Mine Waste (Refuse Piles/Impoundments)
1. <u> </u> Drainage Control
2. <u> </u> Surface Stabilization
3. <u> </u> Placement
4. <u> </u> Inspections and Certifications
5. <u> </u> Impounding Structures
G. Use Of Explosives
1. <u> </u> Blaster Certification
2. <u> </u> Distance Prohibitions
3. <u> </u> Blast Survey/Schedule
4. <u> </u> Warnings & Records
5. <u> </u> Control of Adverse Effects | H. <u>1</u> Subsidence Control Plan
I. Roads
1. <u> </u> Road Construction
2. <u> </u> Certification
3. <u> </u> Drainage
4. <u> </u> Surfacing and Maintenance
5. <u> </u> Reclamation
J. Signs & Markers
1. <u> </u> Signs
2. <u> </u> Markers
K. <u> </u> Distance Prohibitions
L. Revegetation
1. <u> </u> Vegetative Cover
2. <u> </u> Timing
M. <u> </u> Postmining Land Use
N. Other
<div style="margin-left: 40px;">General
Performance
Category</div> <div style="margin-left: 40px;">1) _____
2) _____
3) _____</div> |
|---|---|--|

Performance Standard Categories 30 CFR Counterpart

- | | |
|---|--|
| A. Administrative.....(816/817.22)
1. Valid Permit.....773.11
2. Mining within Bonded Area.....773.11
3. Terms & Conditions of Permit.....773.17
4. Liability Insurance.....800.60
5. Ownership and Control.....778.13
6. Temporary Cessation.....842.11(e) & 816/817.131
7. AML Rec. Fees -- Non-Respondant.....870.15(b)
8. AML Rec. Fees -- Failure to Pay.....870.15(a)
B. Hydrologic Balance.....(816/817.41-57)
1. Drainage Control.....45
2. Inspections & Certifications.....49(a)(10)
3. Siltation Structures.....46
4. Discharge Structures.....47
5. Diversions.....43
6. Effluent Limits.....42
7. Ground Water Monitoring.....41(c)
8. Surface Water Monitoring.....41(e)
9. Drainage--Acid - Toxic Materials.....41(f)
10. Impoundments.....49
11. Stream Buffer Zones.....57
C. Topsoil & Subsoil.....(816/817.22)
1. Removal.....22(a)
2. Substitute Materials.....22(c)
3. Storage and Protection.....22(c)
4. Redistribution.....22(d)
D. Backfilling & Grading.....(816/817.95-107)
1. Exposed Openings.....816/817.13, 14, 15, & 823.11 & 21
2. Contemporaneous Reclamation.....100
3. Approximate Original Contour.....102(a)(1)
4. Highwall Elimination.....102(a)(2)
5. Steep Slopes (includes downslope).....107
6. Handling of Acid & Toxic Materials.....102(c)
7. Stabilization (rills and gullies).....95(b) | E. Excess Spoil Disposal.....(816/817.71-74)
1. Placement.....71(e)
2. Drainage Control.....71(f)
3. Surface Stabilization.....71(g)
4. Inspections & Certifications.....71(h)
F. Coal Mine Waste (Refuse Piles/Impoundments)(816/817.81-84)
1. Drainage Control.....83(a)
2. Surface Stabilization.....83(b)
3. Placement.....83(c)
4. Inspections and Certifications.....83(d)
5. Impounding Structures.....84
G. Use of Explosives.....(816/817.61-68)
1. Blaster Certification.....61(c)
2. Distance Prohibitions.....61(d)
3. Blast Survey/Schedule.....62-64
4. Warnings & Records.....66 & 68
5. Control of Adverse Effects.....67
H. Subsidence Control Plan.....(817.121-122)
I. Roads.....(816/817.150-151)
1. Road Construction.....150(c)
2. Certification.....151(a)
3. Drainage.....150(b)-151(d)
4. Surfacing and Maintenance.....150(e)-151(d)
5. Reclamation.....150(f)
J. Signs & Markers(816/817.11)
1. Signs.....11(a),(b),&(c)
2. Markers.....11(a),(b),(d),(e),&(f)
K. Distance Prohibitions.....(761.11)
L. Revegetation.....(816/817.111-116)
1. Vegetative Cover.....111 & 116
2. Timing.....113
M. Postmining Land Use.....(816/817.133) |
|---|--|

Emery Deep Mine Field Evaluation

Utah Division of Oil, Gas, and Mining (DOGM) Permit No. C/015/0015
Tuesday, May 11, 2010 9:00-12:00

Participants:

Elizabeth Shaeffer, USDOL/Office of Surface Mining (OSM)
Ingrid Wieser, DOGM
Joe Helfrich, DOGM
John Gefferth, Consolidation Coal Company

Weather conditions: Cloudy and cool, windy.

The purpose of this inspection was to evaluate whether DOGM is implementing its approved regulatory program by ensuring that the Utah program is successful in preventing offsite impacts by enforcing a *Protection and Enhancement Plan* to minimize disturbances and adverse impacts to fish and wildlife as a result of mining activities, and whether mine operators are complying with applicable regulatory and permit requirements pertaining to the minimization of adverse impacts to fish and wildlife and related environmental values during coal mining and reclamation operations. OSM and DOGM jointly selected this oversight topic since current mining operations are having a difficult time balancing the need for construction activity with the need to protect fish, wildlife, and their habitat.

The use of "wildlife exclusionary periods", developed by the Utah Division of Wildlife Resources (UDWR), is recommended as a best technology to minimize disturbances and adverse impacts to fish and wildlife. Wildlife exclusionary periods (WEPs), also known as seasonal and spatial buffers, address certain critical life periods specific to each wildlife species, including important mating, reproduction, and nesting periods.

In the mine office, John Gefferth provided a briefing summary of this mine's experiences with the burrowing owl and WEPs. The group discussed the location of burrows used by the owls within the permit area. On a map, John showed the location of the burrows and the panel that was planned for mining (Panel 00N).

The mine was required to implement a Protection and Enhancement Plan for burrowing owls after a sighting occurred during an environmental assessment (EA) in 2008. The burrowing owl was using an active prairie dog colony site for nesting. Burrowing owls often return to nest in the same burrow each spring after their winter migration. It was concluded that the owls could be negatively affected from expected subsidence from underground mining during their most critical life period (March through June). Fledging burrowing owls may not be mobile at the time of subsidence and could fall into cracks or be abandoned as the adults vacate the burrow.

The mine committed to monitor the area during and after subsidence to determine if adverse effects from mining had occurred. Additionally, the mine constructed seven

artificial burrows within the permit area. Two of these burrows were intentionally placed in the subsidence zone so that the company could test the effects of subsidence on the burrows. The entrances to these burrows were closed to prevent owls from nesting in them during the test period. The first burrow was placed in the subsidence zone at the mound where the owl was sighted during the EA.

Abandoned prairie dog mounds were utilized for construction of the artificial burrows. Nesting boxes made from sprinkler boxes were placed 4 feet below ground surface (see Photos 1 and 4). The nests have an artificial floor with holes drilled to facilitate drainage. Sections of corrugated 4-inch pipe (8 to ten feet long) with a ninety degree bend created the tunnels to the nest. Perching posts were also placed near some of the sites (see Photo 3).

The group visited some of the natural (see Photo 3) and artificial burrows in the field. The mounded area above the artificial burrows appeared to be trampled on my cows (see Photo 3). No owls were seen near the burrows. In late May, DOGM acquired a bore-hole camera to look into the holes for activity. DOGM biologists and OSM technical support staff have volunteered to participate in the survey by video-recording the integrity of the 7 artificial burrows and 7 natural burrows prior to and after planned subsidence using a modified borehole camera and DVD recorder. The pre and post-subsidence videos will be compared to determine if the natural or artificial burrows have been impacted by the planned subsidence.

As a result of this evaluation, the Team determined that the DOGM is effectively implementing its program in compliance with the applicable requirements of the Utah Administrative Code at R645-301-333 pertaining to the enforcement of Protection and Enhancement Plans.

Photographs:



Photo 1: Construction of Artificial Burrow



Photo 2: Natural Burrows



Photo 3: Artificial Burrow and Perch



Photo 4: Artificial Burrow entry